

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GS HOLISTIC, LLC,

Plaintiff,

v.

BARRETT & MITCHELL
ENTERPRISES INC., et al.,

Defendants.

CASE NO. C23-5227JLR

ORDER

Before the court is Plaintiff GS Holistic, LLC's ("GS Holistic") motion for a 20-day extension of time to file a motion for leave to serve Defendant Timothy Mitchell by publication. (Mot. (Dkt. # 15).) Because none of the Defendants have appeared in this action, the court exercises its discretion under Federal Rule of Civil Procedure 1 to decide this motion before the September 22, 2023 noting date. Fed. R. Civ. P. 1 (directing courts to construe the Federal Rules of Civil Procedure "to secure the just, speedy, and inexpensive determination of every action and proceeding"). The court has reviewed GS

1 Holistic's motion, the relevant portions of the record, and the governing law. Being fully
2 advised, the court GRANTS the motion.

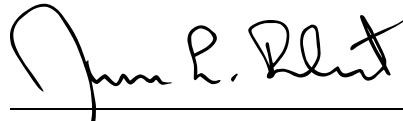
3 On August 22, 2023, the court granted in part GS Holistic's second motion for an
4 extension of time to perfect service on Mr. Mitchell and ordered GS Holistic to file proof
5 of service by no later than September 12, 2023. (8/22/23 Order (Dkt. # 12); *see also*
6 6/15/23 Order (granting GS Holistic's first motion for an extension of time).) The court
7 further stated that failure to timely file proof of service would result in the dismissal
8 without prejudice of GS Holistic's claims against Mr. Mitchell and that no further
9 extensions of the deadline to serve Defendants would be granted. (8/22/23 Order at 3-4.)

10 Rather than timely file proof of service, however, GS Holistic filed the instant
11 motion seeking an extension of the deadline to serve Mr. Mitchell by publication. (*See*
12 Dkt.) It states that it did not realize until it received the court's September 12, 2023 order
13 denying its motion for leave to serve a defendant by publication in a separate case that it
14 has not complied with the requirements for service by publication in this case. (Mot. ¶ 19
15 (citing Order, *GS Holistic, LLC v. Mitchell & Mitchell Enterprises, Inc.*, No.
16 C23-5214JLR (W.D. Wash. Sept. 12, 2023), Dkt. # 17).) GS Holistic asserts that it has
17 asked its process server for an affidavit stating the reasons the process server believes that
18 Mr. Mitchell is avoiding service, and that it will mail the summons and complaints to Mr.
19 Mitchell in order to comply with Washington law. (*Id.* ¶¶ 20-21); *see* RCW 4.28.100
20 (authorizing service by publication under certain circumstances); RCW 4.28.110 (setting
21 forth procedural requirements for service by publication). As a result, GS Holistic now
22

1 seeks a 20-day extension of the deadline to file a motion for leave to serve Mr. Mitchell
 2 by publication so that it can complete the prerequisites for such service. (Mot. ¶¶ 20-22.)

3 Local Civil Rule 7(j) provides that a “motion for relief from a deadline should,
 4 whenever possible, be filed sufficiently in advance of the deadline to allow the court to
 5 rule on the motion prior to the deadline.” Local Rules W.D. Wash. LCR 7(j). “Parties
 6 should not assume that the motion will be granted and must comply with the existing
 7 deadline unless the court orders otherwise.” *Id.* Here, GS Holistic has provided no
 8 justification for why it could not have filed a motion for leave to serve Mr. Mitchell by
 9 publication well in advance of the September 12, 2023 service deadline set in the court’s
 10 August 21, 2023 order. (*See generally* Mot.) Nevertheless, the court will GRANT GS
 11 Holistic’s motion for a 20-day extension of the deadline to file a motion for leave to serve
 12 Mr. Mitchell by publication (Dkt. # 15). GS Holistic shall file its motion and an affidavit
 13 setting forth the facts that lead it to believe that Mr. Mitchell is evading service by no
 14 later than **October 2, 2023**.¹ GS Holistic is ORDERED to be mindful of the deadlines
 15 set by this court in the many cases it has filed in this District and to plan ahead in order to
 16 meet those deadlines. No further extensions of deadlines will be granted in this case.

17 Dated this 13th day of September, 2023.

18
 19 
 20 JAMES L. ROBART
 United States District Judge

21
 22 ¹ The affiant shall attach exhibits substantiating the evidence that GS Holistic contends
 supports a finding that Mr. Mitchell is evading service.